

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 991 School Improvement and Accountability
SPONSOR(S): Full Appropriations Council on Education and Economic Development; PreK-12 Policy Committee; Grady and others
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	PreK-12 Policy Committee	12 Y, 1 N, As CS	Brock	Ahearn
1)	Full Appropriations Council on Education & Economic Development	17 Y, 3 N, As CS	Clark	Martin
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

The federal Elementary and Secondary Education Act of 1965, as revised by the *No Child Left Behind (NCLB) Act of 2001*, requires each state to have a single, statewide accountability system based on academic standards and assessments, containing sanctions and rewards to hold school districts and public schools accountable for student achievement.

The CS/CS/HB 991 aligns the state and federal school improvement and accountability laws by:

- Extending the federal accountability requirements to *all* public schools in the state.
- Specifying that the State Board of Education (SBE) is responsible for public school improvement and accountability.
- Requiring the Department of Education (DOE) to categorize public schools annually based on a school's grade and the level of student performance and target schools with intervention and support strategies.
- Requiring the DOE to create a matrix that reflects which intervention and support strategies are applied to the lowest performing schools.
- Specifying that for a school identified in the low performing category, the school district must implement one of the following options:
 - Convert the school to a district-managed turnaround school;
 - Reassign students to another school and monitor the progress of the reassigned students;
 - Close the school and authorize a sponsor to reopen the school as a charter school or multiple charter schools; or
 - Contract with an outside entity to operate the school.
- Listing options that the SBE may use to enforce school improvement and accountability in the public schools.

The CS/CS/HB 991 does not appear to create a fiscal impact on state or local governments. The DOE estimates no fiscal impact. However, the DOE acknowledges that it is difficult to estimate costs associated with fiscal penalties for districts that do not comply, in addition to costs associated with reassigning students; exercising the charter school option; and contracting with outside management.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation:

No Child Left Behind Act of 2001

The federal *No Child Left Behind (NCLB) Act of 2001* reauthorized and substantially revised the Elementary and Secondary Education Act of 1965, which provides federal funds to states and school districts for economically disadvantaged students.¹ The NCLB Act emphasizes accountability, local flexibility in the use of federal funds, educational choice, and effective teaching methods.² Compliance with the federal law facilitates the receipt of federal funds for state public schools.

The NCLB Act also requires a demonstration of adequate yearly progress (AYP).³ The NCLB Act requires a state to demonstrate, using its academic assessments, that the state and all of its school districts and public elementary and secondary schools meet its annual measurable objectives, thereby showing annual increases in student achievement.⁴ Florida's state NCLB plan includes FCAT Reading and Mathematics for grades 3-10, and the essay portion of FCAT Writing+ in grades 4, 8, and 10, to determine a school's AYP.⁵

Statewide Accountability System

The NCLB Act requires each state to develop a single, statewide accountability system based on academic standards and assessments, and provide sanctions and rewards that the state will use to hold school districts and public schools accountable for student achievement. The NCLB Act requires each state to adopt challenging academic content and student achievement standards that apply to all public schools and students in the state.⁶ Each state must implement high-quality annual student

¹ *No Child Left Behind Act of 2001*, Pub. L. No. 107-110, 115 Stat. 1425 (Jan. 8, 2002), 20 U.S.C. § 6311, available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_public_laws&docid=f:publ110.107.pdf.

² See U.S. Department of Education, *Overview: Four Pillars of NCLB*, <http://www.ed.gov/nclb/overview/intro/4pillars.html> (last visited Nov. 14, 2008); U.S. Department of Education, *No Child Left Behind: A Desktop Reference 2002*, 9-11 (Sept. 2002), available at <http://www.ed.gov/admins/lead/account/nclbreference/reference.pdf>.

³ 20 U.S.C. § 6311(b)(1)(A)&(2)(B)&(C).

⁴ 20 U.S.C. § 6311(b)(2)(A)-(C).

⁵ See Florida Department of Education, *2008 Guide to Calculating Adequate Yearly Progress (AYP)*, *Technical Assistance Paper 2007-08*, 2 (July 2008), available at <http://schoolgrades.fldoe.org/pdf/0708/2008AYPTAP.pdf> (reading and mathematics proficiency for purposes of AYP), at 11-18; see Pub. L. No. 107-110, 115 Stat. 1425 (2002).

⁶ 20 U.S.C. § 6311(b)(1)(A)&(B).

academic assessments in, at a minimum, mathematics, reading or language arts, and science.⁷ Florida's NCLB state plan uses the Florida Comprehensive Assessment Test (FCAT) as its academic assessment for purposes of the NCLB Act.⁸ The statewide accountability system also must include awards and sanctions, including annual report cards that include state and school district accomplishments on measurable performance objectives.⁹

The State Board of Education (SBE) is responsible for the system of performance and accountability in the public schools. The SBE must intervene in the operation of a district school system when one or more schools have failed to make adequate progress for 2 school years in a 4-year period. The SBE must recommend action to a district school board intended to improve educational services to students in each school that is designated with a grade of "F." Recommendations must consider the unique characteristics of the school, which must include student mobility rates, the number and type of exceptional students, and the availability of options for improved educational services. This process is provided for in SBE rules and the school districts are allowed time to improve student performance and present evidence of assistance and interventions that the district school board has implemented.¹⁰ The SBE may recommend one or more of the following actions to district school boards:

- Provide additional resources;
- Implement a plan to solve equity problems;
- Contract for education services at the school or reorganize the school;
- Allow parents of students in the school to send their children to another district school of their choice; or
- Take other action appropriate to improve the school's performance.¹¹

The SBE may require the Department of Education or Chief Financial Officer to withhold any transfer of state funds to the school district if, within the timeframe specified in state board action, the school district has failed to comply with the action ordered to improve the district's low performing schools. Withholding the transfer of funds must occur only after all other recommended actions for school improvement have failed to improve performance.¹²

District school boards are required to implement school improvement and accountability that includes implementation of district school improvement plans, intervention strategies, and notification of the SBE concerning school progress after 2 years.¹³

School Restructuring

Under the NCLB Act, with respect to Title I schools, failure to achieve AYP can result in requiring the school district to: provide students with the option to transfer to another public school; continue to make supplemental educational services available to children who remain in the school; and prepare a plan and make necessary arrangements for alternative governance. Not later than the beginning of the school year following the year in which these efforts are made, the school district must implement one of the following alternative governance arrangements for the Title I school consistent with state law:

- Reopening the school as a public charter school.
- Replacing all or most of the school staff (which may include the principal) who are relevant to the failure to make AYP.

⁷ 20 U.S.C. § 6311(b)(3)(A).

⁸ Florida Department of Education, *Florida NCLB Consolidated State Application Accountability Workbook* (State Accountability Plan), 57-58 (June 8, 2008), available at <http://www.ed.gov/admins/lead/account/stateplans03/flcsa.pdf>; see sections 1000.21(7) & 1003.41, F.S.

⁹ 20 U.S.C. § 6311(b)(2)(A)(iii).

¹⁰ Section 1008.33(1), F.S.; see also 6A-1.09981, F.A.C. "Implementation of Florida's System of School Improvement and Accountability."

¹¹ Section 1008.33(2), F.S.

¹² Section 1008.33(4), F.S.; see also Rule 6A-1.09981, F.A.C. "Implementation of Florida's System of School Improvement and Accountability."

¹³ Section 1001.42(18), F.S.

- Entering into a contract with an entity, such as a private management company, with a demonstrated record of effectiveness, to operate the public school.
- Turning the operation of the school over to the State educational agency, if permitted under State law and agreed to by the State.
- Any other major restructuring of the school's governance arrangement that makes fundamental reforms, such as significant changes in the school's staffing and governance, to improve student academic achievement in the school and that has substantial promise of enabling the school to make adequate yearly progress.¹⁴

Differentiated Accountability

On August 1, 2008, the U.S. Department of Education selected Florida as one of six states participating in a Differentiated Accountability Pilot Program. Participation in the program provides flexibility in implementing the NCLB Act to target interventions in all of the lowest performing schools, thus aligning the state and federal accountability systems. Using a five region model, the differentiated accountability program delivers assistance and support to schools as school grades and their AYP decline.¹⁵ Interventions focus on tailoring approaches to performance issues. The program includes focusing improvement efforts, increasing leadership and educator quality, targeting professional development to school needs, aligning and pacing curriculum, using data to drive instruction and continuous improvement, providing educational choice and tutoring, and monitoring, to improve student achievement and school performance.¹⁶ Interventions for schools are categorized and grouped based on school grade and the percent of AYP criteria met. The AYP criteria include: participation rates; reading, writing, and math proficiency; graduation rate (as applicable); and a school grade of "A," "B," or "C."¹⁷ Title I schools that have not met this criteria for two or more years and non-Title I repeating grade "F" (grade "F" in current year and one additional "F" in a 4-year window), "F," and "D" schools are identified in one of the following categories: Prevent, Correct, or Intervene. The roles of the school, district, and state in the Differentiated Accountability Pilot Program are as follows depending upon in which category the low performing school is placed:

- *Prevent I* – The school directs intervention, the district provides assistance, and the state monitors.
- *Prevent II* – The district directs intervention and provides assistance.
- *Correct I* – The district directs intervention and the state reviews progress.
- *Correct II* – The school and district implement state-directed interventions.
- *Intervene* – The school and district implement state-directed interventions and face possible closure, and the state monitors.¹⁸

Intervene schools are those schools that have failed to achieve AYP for five or more years in addition to demonstrating severe, long-standing reading and mathematics-based deficiencies.¹⁹

Assignment of Teachers

The legislature finds disparities between teachers assigned to teach in a majority of "A" graded schools and teachers assigned to teach in a majority of "F" graded schools. The disparities are found in the average years of experience, the mean salary, and the performance of the teachers on teacher certification examinations. School districts may not assign a higher percentage than the school district average of first-time teachers, temporarily certified teachers, teachers in need of improvement, or out-

¹⁴ 20 U.S.C. § 6316(b)(8)(B).

¹⁵ Department of Education, Bureau of School Improvement, PowerPoint Presentation, February 10, 2009, at 2.

¹⁶ *Regional Support System Training Manual*, Florida Department of Education, Bureau of School Improvement, 2008, at 27.

¹⁷ *Id.*, at 14.

¹⁸ *Id.*

¹⁹ *Id.*, at 28.

of-field teachers to schools with above the school district average of minority and economically disadvantaged students or schools that are graded “D” or “F.”²⁰

Effect of Proposed Changes

Short Title

The act is entitled “Florida’s Equal Opportunity in Education Act.”

School Improvement and Accountability

Alignment between State and Federal Law

The CS/CS/HB 991 aligns and directly connects the school improvement and accountability state statutes with the education accountability provisions from the federal Elementary and Secondary Education Act of 1965, as revised by the *No Child Left Behind (NCLB) Act of 2001*. The aligned school improvement and accountability system is extended to *all* public schools in the state.

The State Board of Education (SBE) is responsible for a system of school improvement and accountability that assesses student performance by school, identifies schools in which students are not making adequate progress toward state standards, institutes appropriate measures for enforcing improvement, and provides rewards and sanctions based on performance.

The CS/CS/HB 991 states that the state system of school improvement and education accountability must provide for uniform accountability standards, provide assistance of escalating intensity to low-performing schools, direct support to schools in order to improve and sustain performance, focus on the performance of student subgroups, and provide options for equal opportunities for students to obtain a high-quality education.

Differentiated Accountability

The CS/CS/HB 991 authorizes the SBE to equitably enforce the accountability requirements of the public school system, including the power to impose state requirements on districts to improve academic performance of all districts, schools, and students. The Department of Education (DOE) must annually categorize public schools in one of six categories based on a school’s grade and the level of student performance, and the rate of change in performance, in reading and mathematics, disaggregated into student subgroups according to the education accountability requirements for meeting adequate yearly progress (AYP). Student subgroups include economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency.

Schools are targeted with intervention and support strategies addressing student performance, including but not limited to:

- Improvement planning;
- Leadership quality improvement;
- Educator quality improvement;
- Professional development;
- Curriculum alignment and pacing;
- The use of continuous improvement; and
- Monitoring plans and processes.

The SBE may prescribe reporting requirements to review and monitor the progress of the schools.

²⁰ Section 1012.2315 (1)(2), F.S.

School Restructuring

The CS/CS/HB 991 requires the DOE to create a matrix that reflects which intervention and support strategies may be applied to address the particular needs of schools in each category. Intervention and support strategies shall be applied to schools based upon the school categorization. The most intense intervention and support strategies shall be applied to schools in the lowest performing category.

For a school identified in the category of lowest performing schools, the school district must select one of the following options and submit a plan to the SBE for implementing the option by the beginning of the second year after such identification, unless the school advances to a higher category or exits the category before such time:

- Convert the school to a district-managed turnaround school by means that include implementation of a turnaround plan approved by the Commissioner of Education that becomes the school's improvement plan;
- Reassign students to another school and monitor the progress of the reassigned students;
- Close the school and authorize a sponsor to reopen the school as a charter school or multiple charter schools; or
- Contract with an outside entity to operate the school.

Implementation of the option requires SBE approval. Once implemented, continuation of the option must be based on the school moving from the lowest performing category or on approval by the SBE upon finding that it is likely that the school will move from the lowest performing category if provided additional time to implement intervention and support strategies.

In order to advance to a higher category, a school must make significant progress by improving its school grade and by increasing student performance in mathematics and reading. Student performance must be evaluated for each subgroup. Subgroups include: economically disadvantaged students; students from major racial and ethnic groups; students with disabilities; and students with limited English proficiency.

State Board of Education Enforcement Authority

The SBE may impose a public reprimand upon a school district if the district deviates from or fails to implement any provisions of its improvement plan or of s. 1008.33, F.S. If the deviation or failure to comply is repeated, continuous, or serious, the SBE may withhold the transfer of all state funds generated by the students assigned to that school and allowable federal funds. This establishes a continuum of consequences for failure to comply.²¹

District School Improvement Plans

The school improvement plans must be annually approved by the district school board and must comply with the provisions of s. 1008.33, F.S., relating to public school improvement, s. 1008.34, F.S., relating to the school grading system, s. 1008.345, F.S., relating to the state system of school improvement and education accountability, and s. 1008.385, F.S., relating to educational planning and information systems.

Assignment of Teachers

The CS/CS/HB 991 finds disparities between teachers assigned to teach in a majority of schools that do not need improvement and schools that do need improvement. The disparities may be found in the assignment of temporarily certified teachers, teachers in need of improvement, and out-of field teachers, and in performance of the students of a teacher.²² School districts may not assign a higher

²¹ Department of Education Bill Analysis on Senate Bill 2482, March 2, 2009 at 5.

²² Currently, the law identifies disparities among teachers with regard to average years of experience, median salary, and performance on teacher certification examinations. Section 1012.2315, F.S.

percentage than the school district average of temporarily certified teachers, teachers in need of improvement, or out-of-field teachers to schools categorized as needing improvement pursuant to s. 1008.33, F.S., relating to public school improvement.

B. SECTION DIRECTORY:

Section 1: Provides a short title: "Florida's Equal Opportunity in Education Act."

Section 2: Amends s. 1001.42, F.S., requiring the state system of school improvement and educational accountability to comply with certain accountability requirements; deleting specific district school board duties relating to school improvement plans and forms of assistance and intervention; and requiring compliance with ss. 1008.33, 1008.34, 1008.345, & 1008.385, F.S.

Section 3: Substantially rewords s. 1008.33, F.S., requiring the state system of school improvement and education accountability to incorporate accountability requirements of federal law; providing duties of school districts to improve student academic achievement and to improve low-performing schools; providing State Board of Education responsibility for the state system and enforcement of its accountability requirements; providing requirements for the state system; providing duties of the Department of Education for determining the need for action to achieve school improvement; providing for intervention and support strategies to meet school needs; requiring State Board of Education approval of options for the lowest performing schools; providing penalties for deviation from or failure to implement certain school improvement provisions; and requiring Department of Education commencement of duties and State Board of Education adoption of rules.

Section 4: Amends s. 1008.34, F.S., revising provisions relating to the designation of school grades by specifying that the performance of disaggregated student subgroups be included in student achievement scores used to calculate school grades by the 2010-2011 school year.

Section 5: Amends s. 1008.345, F.S., conforming provisions on school improvement and accountability.

Section 6: Amends s. 1012.2315, F.S.; revising and conforming provisions relating to the assignment of teachers.

Section 7: Amends s. 1002.33, F.S., conforming provisions concerning charter schools.

Section 8: Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The CS/CS/HB 991 does not appear to affect state government revenues.

2. Expenditures:

The CS/CS/HB 991 does not appear to affect state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The CS/CS/HB 991 does not appear to affect local government revenues.

2. Expenditures:

The CS/CS/HB 991 does not appear to affect local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The DOE indicates that there will be no additional costs to the department to implement the requirements of the CS/CS/HB 991.²³ However, the DOE acknowledges that it is difficult to estimate costs associated with fiscal penalties for districts that do not comply, in addition to costs associated with reassigning students; exercising the charter school option; and contracting with outside management.²⁴

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The CS/CS/HB 991 does not appear to require a city or county to expend funds or to take any action requiring expenditures; reduce the authority that municipalities or counties had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The DOE is granted rulemaking authority to enforce public school improvement and accountability. By July 1, 2010, the State Board of Education must adopt rules to implement section 3 of the CS/CS/HB 991.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

The differences between the Committee Substitute (CS) and House Bill 991 are as follows:

House Bill 991 established the School Grade Improvement Commission under the State Board of Education (SBE) to support innovative charter schools, in collaboration with school districts, Department of Education and the SBE.

House Bill 991 authorized that the School Grade Improvement Commission, when invited by the school district, to:

- Develop and support remedial charter schools as an alternative to a public school found to be chronically failing.
- Assist in the establishment of charter schools when a public school received a grade of "F" for 3 years in a 4-year period.
- Investigate or cause to be investigated the reasons for chronic failure of a public school and isolate those variables critical to the success of a remedial charter school.
- Monitor and annually review and evaluate the academic and financial performance of a remedial charter school and hold the school accountable for its performance.

²³ Correspondence with the Department of Education, March 6, 2009.

²⁴ Correspondence with the Department of Education, March 23, 2009.

The CS is substantially different from House Bill 991. The CS is known as “Florida’s Equal Opportunity in Education Act,” and it aligns state and federal school accountability systems. The bill:

- Extends the federal accountability requirements to *all* public schools in the state. The State Board of Education is responsible for public school improvement and accountability
- Requires the Department of Education to categorize public schools annually based on a school’s grade and the level of student performance and target schools with intervention and support strategies.
- Requires the Department of Education to create a matrix that reflects which intervention and support strategies are applied to the lowest performing schools. For a school identified in the low performing category, the school district must implement one of the following options:
 - Convert the school to a district-managed turnaround school;
 - Reassign students to another school and monitor the progress of the reassigned students;
 - Close the school and authorize a sponsor to reopen the school as a charter school or multiple charter schools; or
 - Contract with an outside entity to operate the school.
- Lists options that the State Board of Education may use to enforce school improvement and accountability in the public schools.

On April 7, 2009, the Full Appropriations Council on Education and Economic Development adopted one amendment to the CS/HB 991 and reported the bill favorably as a CS. The amendment restores the school grading formula to current law instead of making the formula more dependent on federal policy, of which the state has no control over. The amendment removes the requirement that school grades be based on achievement of subgroups of the student population.